

Appendix B

NECESSARY EXPENSES

Necessary Expenses in General

In addition to the necessary expenses itemized for each category below, the Executive Committee has authorized certain “Other Necessary Expenses” (see Appendix B-1 to B-8 for estimated expense sheets and appendix B-9 for examples of “Other Necessary Expenses.”) Disputes between any agency/entity and the SNPLMA Division over whether or not a requested expense is authorized will be resolved by the Executive Committee.

For a cost to be considered a necessary expense of the project, it must meet three criteria:

- 1. The expenditure must “make a direct contribution to carrying out the appropriation” which in the case of SNPLMA and FLTFA are expenditures authorized by Congress in SNPLMA and FLTFA legislation as reflected in the projects and acquisitions approved by the Secretary of the Interior and Secretary of Agriculture;**
- 2. The expenditure must not be prohibited by law; and**
- 3. The expenditure must not be covered by another more specific source of funding, i.e., the specific approved project or acquisition must not be provided for in another appropriation or statutory funding scheme.**

Although there is no distinction between direct and indirect costs in “necessary expenses” doctrine, the expenses charged by the agencies/entities must be tied to a specific project and tracked by project. Federal agencies and local and regional governmental agencies shall not seek, and the BLM will not pay, agency/entity standard overhead percent based on the total project cost. Federal agencies and local and regional governmental agencies are solely responsible for seeking any waivers from their headquarters and resolving any issues internally regarding not being allowed to assess such standard overhead charges. However, project-related indirect costs for support services may be charged at a percent based on staff time spent on the project(s), provided these expenses meet the three criteria above. Examples of such indirect costs would be secretarial support, printing, copying, cost-center expenses, etc. (See Appendix B-9 for other examples of necessary expenses.)

Necessary expenses incurred under the Acts included in this Implementation Agreement will be payable/reimbursable from the Special Accounts up to the amount available per project or acquisition as approved in the decision document signed by the Secretary of the Interior, plus any additional funding approved by the Executive Committee through the SAR or Budget Reallocation through the processes described earlier in this Agreement. Payroll as a necessary expense will be charged at the fully loaded rate which includes the agency’s/entity’s costs for taxes and benefits.

Payment/Reimbursement of the necessary expenses listed for each category below shall be made subject to the limitations, restrictions, and requirements explained elsewhere throughout this document.

1. Land and Interest in Land Acquisition Necessary Expenses

Unless otherwise noted, the following necessary expenses may be paid/reimbursed under both the SNPLMA and FLTFA, limited as explained above.

- Acquisition Purchase Price (the amount paid/reimbursed by SNPLMA may not exceed the federally approved appraised value);
- Appraisal. (The cost of one appraisal and, if approved in advance by the SNPLMA Division, one update of that appraisal by the same firm, if despite the agency's best efforts, the appraisal validity period expires prior to completion of the acquisition. The Executive Committee can waive this rule to allow a second appraisal by the same firm if extenuating circumstances warrant. Failure to agree on the purchase price is not, in itself, adequate justification for an updated or second appraisal.)
- Land boundary survey costs
- Environmental Site Assessment (hazardous materials assessment)
- NEPA costs (NEPA costs are not reimbursable under the FLTFA)
- Water Rights Report and Analysis (to verify transferability of water rights, amount, type, etc.)
- Mineral Potential Report (only when authorized in advance by the SNPLMA Division as being cost effective; disputes will be resolved by the Executive Committee. Mineral exploration (drilling & testing) is not reimbursable).
- Cost of Title Evidence
- Escrow Fees, Recording Fees, and Miscellaneous Closing Costs;
- Cost of Owner's Title Insurance
- The pro-rata share of any pre-paid real property taxes or assessments;
- Penalty costs and other charges for prepayment of any pre-existing recorded mortgage, deed of trust, or other security instrument that encumbers the real property;
- Relocation Assistance Payments to Eligible Displaced Persons under the Uniform Act
- Direct Federal labor or Contracted Labor Cost for activities necessary to complete the acquisition and/or to reach a decision as to whether or not the acquisition can be completed. This includes such things as: title records management; review of title documents (land, water, mineral, etc.) as well as legal description verification; preparation and review of appraisals, environmental and hazardous substance reports, water rights analyses, mineral rights analyses for title purposes, and surveys; and preparation of requests for preliminary and final title opinion, conveyance documents, and escrow closing instructions; as well as payroll for agency personnel (e.g., contracting officer) and COR to procure and administer acquisition contracts [not allowed for FLTFA acquisitions]
- Travel, including per diem, when official travel status is required for agency personnel to perform case management (e.g., experts to review contracted appraisals, etc.) [not allowed for FLTFA acquisitions]*

- Pro rata cost for use of Official Vehicles when required to carry out case management (e.g., site inspections required for document preparation or experts to review reports, etc.) [not allowed for FLTFA acquisitions]*
- Other Necessary Expenses (see Appendix B-9 for examples)

2. Capital Improvement Necessary Expenses

- Planning, Environmental Compliance, and Preconstruction Engineering & Design (contracted and/or direct labor services), which include the following:
 - ⇒ Pre-design (sketches & conceptual drawings)
 - ⇒ Environmental assessment and permitting including NEPA and specialist surveys/reports for archaeology, wildlife, biology, etc.
 - ⇒ Architectural and engineering analysis, design, surveying and other field investigations
 - ⇒ Construction drawings, specifications, cost estimates, engineering technical reports
- Construction Costs, including the following:
 - ⇒ Construction Contract (labor, supplies & materials, equipment, construction management, etc.)
 - ⇒ Sampling/testing
 - ⇒ Site Restoration
 - ⇒ Government-furnished supplies and materials
 - ⇒ Direct labor (payroll) for personnel to perform the project if not contracted
- Project Equipment (see guidelines in section 8 below)
- Travel, including per diem, when official travel status is required for agency personnel to perform the project (e.g., act as COR, experts to review contracted reports, etc.)
- Pro rata cost for use of Official Vehicles when required to oversee the project or for agency personnel to perform the actual work of the project
- Direct labor (payroll) for the following services:
 - Agency personnel (e.g., contracting officer) performing required project procurements
 - Contracting officer's representative (COR)
 - Project inspector (PI)
 - Agency personnel assigned as NEPA lead
 - Agency personnel assigned to review contracted surveys, designs/drawings, reports, etc., including travel and per diem when agency experts must be in official travel status to perform such reviews,
 - Project manager and/or project supervisor
- Contracted costs for project manager and/or project supervisor
- Other Necessary Expenses (See Appendix B-9 for examples)

Planning, Environmental Compliance and Pre-Construction Engineering & Design Cap. This first expense category may not exceed 27% of the total project cost. This percentage has been established based in large part on a National Academy of Public Administration evaluation of construction cost categories prepared in conjunction with a review of the National Park Service's construction program in 1998 and 2002. However, because smaller projects may have disproportionately higher costs for tasks such as environmental compliance, an agency may

submit nominations based on a programmatic application of the percentage where proposed projects with a lower percentage for this cost category would be cited to balance out projects with a higher percentage for this cost category. If this option is utilized, the average expenditure for this category over all agency projects approved in a given round cannot exceed 27%. For rounds in which this option is utilized, the agency will certify as part of each task order request for projects within the round that this expenditure has been evaluated and the average percentage is being maintained at no more than 27%. The Executive Committee reserves the right to waive this business rule if extenuating circumstances warrant.

Use of Direct Labor. Agencies are encouraged to contract with the private sector for services associated with the design and construction of projects, however, where it is in the best interest of and creates the best value for the government, reimbursement of certain direct labor and other costs may be authorized, including construction work performed by agency in-house construction crews. These costs may include salary, materials, supplies and equipment expenses directly related to the project. Utilization of direct labor shall be indicated as part of the nomination package cost estimate if possible. Utilization of direct labor must be indicated on the cost estimate sheet submitted with the IGO/task order or transfer request. If a determination is made to utilize direct labor after the IGO/task order or transfer is initiated, a request to amend the IGO/task order along with a revised estimated necessary expense sheet must be submitted to the BLM's SNPLMA Division.

A determination that the use of direct Federal labor for carrying out the project is in the best interest of and creates the best value for the government will be made by the Federal agency implementing the project. The determination must be supported by a written justification signed by an authorized agency official and submitted with the task order request. Justification for use of Federal direct labor for a project must relate specifically to the project and may include reasons of cost effectiveness, resource protection, visitor safety, visitor convenience, security, timeliness of implementation, or other such considerations.

If any question or disagreement arises between the requesting Federal agency and the SNPLMA Division regarding the justification provided for utilization of direct Federal labor, the Executive Committee retains the authority to make the final decision regarding use of direct Federal labor.

3. Park, Trail and Natural Area Necessary Expenses of Acquisition of Land and Interests in Land

- Acquisition Purchase Price (The amount paid/reimbursed by SNPLMA may not exceed the approved appraised market value of the land, easement, or right of way.)
- Appraisal. (Appraisals must be consistent with Uniform Appraisal Standards for Professional Appraisal Practices (USPAP) and Uniform Appraisal Standards for Federal acquisitions. The cost of one appraisal and, if approved in advance by the SNPLMA Division, one update by the same firm if, despite the entity's best efforts, the validity period of the appraisal expires before the acquisition can be completed. The Executive Committee can waive this rule to allow a second appraisal by the same firm if extenuating circumstances warrant. Failure to agree on the purchase price is not, in itself, adequate justification for an updated or second appraisal.)

- Land Boundary Survey Costs
- Phase I Environmental Site Assessment and, if required, NEPA costs
- Water Rights Analysis (to verify transferability of water rights, amount, type, etc.)
- Mineral Potential Report (Only reimbursed when authorized in advance by the SNPLMA Division as being cost effective; disputes will be resolved by the Executive Committee. Mineral exploration (drilling & testing) is not reimbursable)
- Cost of Title Evidence
- Escrow Fees, Recording Fees, and Miscellaneous Closing Costs;
- Cost of Owner's Title Insurance
- The pro-rata share of any pre-paid real property taxes or assessments
- Other miscellaneous closing costs
- Penalty costs and other charges for prepayment of any pre-existing recorded mortgage, deed of trust, or other security instrument that encumbers the real property
- Relocation Assistance Payments to Eligible Displaced Persons under the Uniform Act
- Direct labor or contracted labor cost for activities necessary to complete the acquisition and/or to reach a decision as to whether or not the acquisition can be completed. This includes such things as: title records management; review of title documents (land, water, mineral, etc.) as well as legal description verification; preparation and review of appraisals, environmental and hazardous substance reports, water rights analyses, mineral rights analyses for title purposes, and surveys; and preparation of requests for preliminary and final title opinion, conveyance documents, and escrow closing instructions; as well as payroll for agency personnel (e.g., contracting officer) and COR to procure and administer acquisition contracts
- Travel, including per diem, when official travel status is required for entity personnel to perform case management (e.g., experts to review contracted appraisals, etc.)
- Pro rata cost for use of Official Vehicles when required to carry out case management (e.g., site inspections required for document preparation or experts to review reports, etc.)
- Other Necessary Expenses (see Appendix B-9 for examples)

4. Park, Trail, and Natural Area Necessary Expenses

- Planning, Environmental Compliance, and Preconstruction Engineering & Design (contracted and/or direct labor services), which include the following:
 - ⇒ Pre-design (sketches & conceptual drawings)
 - ⇒ Environmental assessment and permitting including NEPA and specialist surveys/reports for archaeology, wildlife, biology, etc.
 - ⇒ Architectural and engineering analysis, design, surveying and other field investigations
 - ⇒ Construction drawings, specifications, cost estimates, engineering technical reports
- Construction Costs, including the following:
 - ⇒ Construction Contract (labor, supplies & materials, construction management, etc.)
 - ⇒ Sampling/testing
 - ⇒ Site Restoration
 - ⇒ Local/Regional government-furnished supplies and materials
 - ⇒ Direct labor (payroll) for personnel to perform the project if not contracted
- Project Equipment (see guidelines in section 8 below)

- Pro rata cost for use of Official Vehicles when required to oversee the project or for local/regional governmental personnel to perform the actual project work
- Other Direct labor (payroll) for the following services:
 - Agency personnel (e.g., contracting officer) performing required project procurements
 - Contracting officer's representative (COR)
 - Project inspector (PI)
 - Local/Regional government personnel assigned as NEPA lead
 - Local/Regional government personnel assigned to review contracted surveys, designs/drawings, reports, etc.
 - Project manager and/or project supervisor
- Contracted costs for project manager and/or project supervisor
- Other Necessary Expenses (see Appendix B-9 for examples)

The guidelines under section "2" above pertaining to the 27% percent cap on "Planning, Environmental Compliance, and Preconstruction Engineering & Design" and to utilization of direct labor also apply to Park, Trail, and Natural Area projects.

5. MSHCP Necessary Expenses

- Planning and environmental assessment costs (specialist surveys/reports including cultural resources, archaeology, wildlife, biology, environmental documentation including NEPA, if required, etc.)
- Direct labor (payroll) for personnel to perform the work if not contracted
- Project Equipment (see guidelines in section 8 below)
- Travel, including per diem, when official travel status is required for agency personnel to perform the project (e.g., act as COR, experts to review contracted reports, etc.)
- Pro rata cost for use of Official Vehicles when required to oversee the project or for local/regional governmental or agency personnel to perform the actual project work
- Costs of contracts, grants and/or agreements to perform project
- Other Direct labor (payroll) for the following services:
 - Agency/Entity personnel (e.g., contracting officer) performing required project procurements
 - Contracting officer's representative (COR)
 - Project inspector (PI)
 - Agency/entity personnel assigned as NEPA lead
 - Agency/entity personnel assigned to review contracted surveys, designs/drawings, reports, etc.
 - Project manager and/or project supervisor
- Contracted costs for project manager and/or project
- Other Necessary Expenses (See Appendix B-9 for examples)

The guidelines under section "2" pertaining to the 27% percent cap on "Planning, Environmental Compliance, and Preconstruction Engineering & Design" and utilization of direct labor also apply to MSHCP projects.

6. Conservation Initiative Necessary Expenses

- Planning and environmental assessment costs (specialist surveys/reports including cultural resources, archaeology, wildlife, biology, environmental documentation including NEPA, if required, etc.)
- Direct labor (payroll) for personnel to perform the work if not contracted
- Direct labor for one dedicated lead/team member from each involved agency
- Project Equipment (see guidelines in section 8 below); includes specialized equipment, uniforms, weapons, etc. required for resource protection positions funded through a project
- Government-furnished supplies and materials
- Travel, including per diem, when official travel status is required for agency personnel to perform the project (e.g., to act as COR, travel by experts to review contracted reports, etc.)
- Pro rata cost for use of Official Vehicles when required to oversee the project or for agency personnel to perform the actual project work
- Cost associated with required training for resource protection positions funded through a project
- Cost of contracts, grants and agreements to perform project
- Other Direct labor (payroll) for the following services:
 - Agency personnel (e.g., contracting officer) performing required project procurements
 - Contracting officer's representative (COR)
 - Project inspector (PI)
 - Agency personnel assigned as NEPA lead
 - Agency personnel assigned to review contracted surveys, designs/drawings, reports, etc.
 - Project manager and/or project supervisor
- Contracted costs for project manager and/or project supervisor
- Other Necessary Expenses (see Appendix B-9 for examples)

The guidelines under section “2” above pertaining to utilization of direct labor also apply to Conservation Initiative projects. Conservation Initiatives do not have a construction component so the 27% cap on “Planning, Environmental Compliance, and Preconstruction Engineering & Design” does not apply.

7. Lake Tahoe Restoration Project and Environmental Improvement Necessary Expenses

- Planning, environmental assessment, and Research costs (specialist surveys and reports, -- including cultural resources, archaeology, wildlife, biology, etc., -- monitoring, data collection, analysis, NEPA, etc.)
- Agency/entity payroll for personnel to perform the project
- Project Equipment (see guidelines below); includes specialized equipment, tools, software
- Travel, including per diem, when official travel status is required for agency personnel to perform the project (e.g., act as COR, experts to review contracted reports, etc.)
- Pro rata cost for use of Official Vehicles when required to oversee the project or for agency personnel to perform the actual project work
- Cost of contracts, grants and/or agreements to perform project

- Other Direct labor (payroll) for the following services:
 - Agency/entity personnel (e.g., contracting officer) performing required project procurements
 - Contracting officer's representative (COR)
 - Project inspector (PI)
 - Agency/entity personnel assigned as NEPA lead
 - Agency/entity personnel assigned to review contracted surveys, designs/drawings, reports, data, perform analysis of data, etc.
 - Project manager and/or project supervisor
- Contracted costs for project manager and/or project supervisor
- Other Necessary Expenses (see Appendix B-9 for examples)

8. Project Equipment as a Necessary Expense

SNPLMA funds are not “grant” funds, but rather are Federal funds approved by the Secretary of the Interior to be expended on a per project basis for project-related necessary expenses only. Once the per-project costs are approved by the Secretary, the funds are deemed appropriated for those projects. Therefore, special consideration should be given in making decisions for acquiring and utilizing equipment necessary for completion of an approved project. SNPLMA can reimburse only those equipment costs directly associated with completion of the approved project.

A. Newly Acquired Equipment. Project Equipment newly acquired with SNPLMA funds is intended to be used solely for the project for which it was acquired throughout the duration of the project. Agencies are expected to follow all agency policies and procedures for acquisition of equipment (e.g., vehicles, IT equipment, etc.). Leasing equipment is preferred over purchase of equipment. Leased equipment must be leased solely for use by the approved project and only for the time period the equipment will actually be needed for the project or the minimum time period allowed by the vendor selected by the contracting officer. If purchasing equipment is less expensive than leasing the equipment for the time period needed for the project, thus resulting in a cost savings over leasing, then the purchase price of the equipment will be fully reimbursable even if the equipment will be used elsewhere after it's no longer needed for the approved project. In this instance, no reimbursement to the SNPLMA account will be required regardless of the value of the equipment upon completion of the project (see below) due to the overall cost savings compared to leasing.

B. Previously Acquired Equipment. Previously leased equipment may be reimbursed if the equipment will be partially used, or solely used for a specified time, by an approved project. Such reimbursements for previously leased equipment will be in proportion to the percentage utilized for the approved project (e.g., 50% project usage will result in a 50% reimbursement) only for those lease payments covering the time period the equipment is used by the project. Equipment previously acquired by purchase which is used on a project will not receive any reimbursement of purchase price already paid.

C. Disposition of Equipment upon Project Completion. Upon completion of the project, if the current value of purchased equipment is less than \$5,000, the equipment may be retained by the

recipient with no obligation to refund the SNPLMA Special Account. This guideline is based on regulations in 43 CFR, Part 12, Subpart C §12.72(e)(1). However, if the “per unit fair market value” of purchased equipment is more than \$5,000 at the time of completion of the project, the CFR states that the grantor is entitled to recover its “ownership” share of that value. Therefore, if SNPLMA fully funds the purchase of the equipment and current value is more than \$5,000, the current value of the equipment will be a deduction in the final reimbursement amount for the project. If another funding source is utilized for a portion of the equipment purchase, the deduction will be prorated based on the percentage of SNPLMA funds used for the purchase. As explained above, this policy will not apply where outright purchase of equipment resulted in a cost savings over leasing the project equipment when the lease would have been for the sole use of the project and only for the time period required by the project.

D. Equipment Management. Federal agency rules and regulations must be followed in managing, maintaining, securing, and inventorying Project Equipment. In the event purchased equipment is to be used for more than one approved project, the cost must be distributed as applicable between the multiple projects with appropriate prorated reimbursement made from the funds obligated for each project. When equipment is leased, the lease should be terminated upon completion of the project or lease costs transferred to another funding source. SNPLMA cannot reimburse costs for equipment required as part of the operation and management of projects.

E. Documentation for Reimbursement. When requesting reimbursement for Project Equipment, the requestor must (a) identify the equipment and its project function, (b) certify the percent utilized by the project and the time period required by the project, (c) note whether equipment is previously leased, newly leased or purchased, and (d) explain circumstances where purchase resulted in cost saving over leasing. Upon completion of the project, the final reimbursement request should, in the case of purchased equipment, certify the “per unit fair market value” including the source or method for determining the value and make appropriate deductions if necessary, or, in the case of leased equipment, certify that the lease has been terminated and/or lease costs transferred to another funding source.

9, Pre-Proposal Planning Necessary Expenses.

Necessary expenses for Pre-Proposal Planning funds used for feasibility studies to determine the parameters of a future nomination shall not include any construction or active-construction related costs. The pre-proposal planning necessary expenses are provided in Appendix J-1. Although some of the examples of Other Necessary Expenses contained in Appendix B-9 would apply, none of those which are or would be associated with an on-going construction project apply to pre-proposal planning efforts.